

REMARKS

Applicants reiterate the election without traverse of Species 1 directed to a density modulator applied to a containment layer made in the Response to Restriction Requirement filed on 22 June 2005. Claims 1, 6-11, 13, 14, 16, 17, 22-27, 29, 30, 32-36 and 38-41 are readable on Species 1.

The Examiner indicates that the reply filed on 22 June 2005 is not fully responsive to the prior Office Action because a listing of claims as required by Revised Amendment Practice under 37 CFR 1.121 was not included. Applicants herein provide a listing of claims in ascending order with status identifiers and text of all pending claims under protest.

The response that the Examiner refers to (namely, the Response to Restriction Requirement mailed by Applicants on 20 June 2005) did not include an amendment to the claims. When no amendment is presented, Applicants are not required to provide a listing of claims indicating their status.

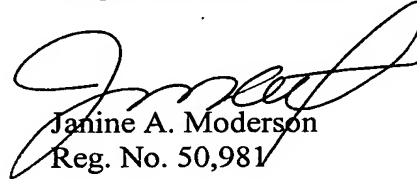
Claims may be withdrawn from consideration only by the action of the Examiner; typically after a response to restriction requirement has been received and considered by the Examiner. The mere issuance of a restriction requirement (in this case, the Office Action of 18 May 2005) does not withdraw claims from consideration, because no election is of record. Furthermore, a response to a restriction requirement does not withdraw claims from consideration, because the Examiner may or may not agree with the position taken by Applicants, and Applicants would have no way of knowing at that time. Thus, it would have been premature for Applicants to identify claims as already having been withdrawn.

While referring to Applicants' response filed 22 June 2005 as "not fully responsive," the Examiner has not identified a statute, rule or MPEP section that has been violated by Applicants. Applicants have reviewed the pertinent statutes, rules and MPEP sections, and have found no basis for the Office Action. The response filed 22 June 2005 was not an "Amendment" and rules governing amendments are not applicable.

Conclusion

Applicants have endeavored to be fully responsive to the Office Action mailed on 07 September 2005. If the Examiner feels that any issues remain, then Applicant's undersigned attorney would like to discuss the case with the Examiner. The undersigned can be reached at (847) 490-1400.

Respectfully submitted,



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